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Royal Irish Academy
15 November 2016

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Ireland North and South

In the context of the EU's external border regime

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Starting point



- Assumptions regarding post-Brexit Irish border:
 - "No return to borders of the past"; business as usual
- EU facilitates transcendence of nationalism for greater good
- EU in favour of soft, 'porous' borders
- Special arrangement can be found for case of island of Ireland
- Island territory means that typical constraints placed on land borders of the EU do not apply

Starting point Challenges

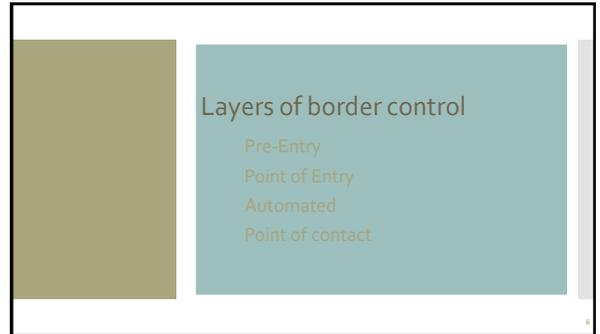
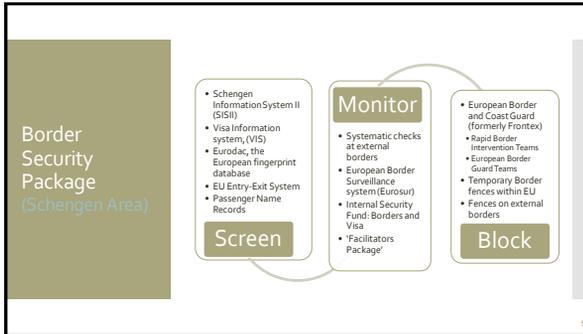


- Assumptions regarding post-Brexit Irish border:
 - "No return to borders of the past"; business as usual
 - BUT border management no longer a bilateral matter
 - EU facilitates transcendence of nationalism for greater good
 - Security of the Union trumps national sovereignty but nation-state borders are still lines of significance
- EU in favour of soft, 'porous' borders
 - Already hardening of treatment of borders for movement of people; precedent for differential treatment of EU citizens
- Special arrangement can be found for case of island of Ireland
 - Unionist parties and British government don't want it
 - Common Travel Area may be a hindrance in this regard
- Island territory means that typical constraints placed on land borders of the EU do not apply
 - The links with the UK complicate that island status
- Deterritorialisation of border management
 - Security of the EU external border regime is much more about internal control than frontier management.

Current state of play in EU border management

"Tolerance cannot come at the price of our security. We need to know who is crossing our borders. ... We will defend our borders with strict controls on everyone crossing them."

President Juncker, State of the Union address, 2016



BORDER CONTROLS

1) Pre-Entry

- European Neighbourhood Policy
 - More funds for more reform
 - + DCFTA (acquis)
- Non granting of visas
 - Information Exchange
- 'Intervention in transit'
 - NB This is in contravention with the right to leave one's country under the Universal Declaration of Human Rights
 - Also breaches principle of non-refoulement, as enshrined in Article 33(1) of the 1951 Refugee Convention

BORDER CONTROLS

2) On-Site

- 'Hotspots'
 - European Asylum Support Office (EASO), Europol and Eurojust assisting member-states processing asylum applications
 - European Border and Coast Guard coordinate return of 'irregular migrants'
- Checks against relevant databases at external borders.
 - Member States are obliged to systematically check third country nationals against all databases on entry and exit
 - PLUS Strengthen checks at external borders of Union citizens to ensure they do not pose a threat 'to internal security or public policy'
- Juxtaposed controls
 - E.g. Turkey, Le Touquet UK/France
- Physical barriers...

Border Fences

Within the EU

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Border fences



Source: Business Insider/Sept 16

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September 2015 Hungary/Croatia

- 348 km (216 mi) border



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September 2015 Slovakia/Hungary

- Slovakia announced the closure of its border with Hungary using the same technique that the United States had employed in Afghanistan and Iraq



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October 2015 Hungary/Slovenia

- In the area around Tornyiszentmiklós-Pince border crossing.



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November 2015 Slovenia/Croatia

- Slovenia began building a razor-wire fence along its frontier with Croatia to stem the estimated 30,000 migrants that were arriving at its borders every day.



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November 2015 Austria/Slovenia



- Also in November, Austria announced it was to erect a metal fence along its border with Slovenia

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Feb 2016 Hungary/Romania

- Announced plans for 280-mile long razor wire barrier along border with Romania, completely cutting off itself from southern Europe.



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July 2016 Austria/Hungary

- Austria ready for 100km border fence with Hungary



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BORDER CONTROLS

3) Automated

- **Two types:**
 - Closed-set
 - Open-set
- **What is checked:**
 - Check the eligibility of the holder to use the system
 - Check the information against police databases
 - Compare the live info with biometric info stored on the chip.
- **Limitations**
 - This requires full disclosure of information about travellers before they depart
 - What happens in case of breach detection?
 - UK currently collects less biometric data on citizens than Schengen

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BORDER CONTROLS

4) Point of Contact

- **Point control** is likely to be more prevalent than border controls
 - i.e. few restrictions on movement but on residency/work
- But this will not assist in problems relating to crime, smuggling, goods
- Much broader significance in terms of roles of individual citizens as 'border guards'

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Examples of exceptions

The EU border regime is characterised by exceptions, often dependent on relations between states and their neighbours

Some examples of accommodation existing in the EU that could be applied...

1. Citizenship beyond boundaries of the state
 - E.g. Moldovans with EU citizenship
2. Passport-free travel
 - E.g. Nordic passport union
3. Cross-border working
 - E.g. Polish Russian Border Travel Zone
4. Automated border entry
 - E.g. enhanced-Immigration Automated Clearance System

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Conclusion Border Controls in the EU

• Points of Commonality

- Hardening of borders driven by fear of migration
 - Except newly announced Sweden/Norway barrier, which is to tackle smuggling)
- Surge of right wing parties
 - Significance of national discourse
- National criticism of EU capacity to address the issue

• Core lessons

- Domestic policy drives border securitisation
- Yet EU momentum is towards 'security union'
- EU practices heavily focused on the 'other' but means increasing monitoring and checks on EU citizens
- Electronic border controls are insufficient
- Prospect of rise of control of individual citizens by citizens centred on increasing knowledge and monitoring of individuals